

AUG 09 2010

|                      |                   |
|----------------------|-------------------|
| First Named Inventor | Mike Peng Li      |
| Serial No.           | 09/997,143        |
| Filing Date          | November 29, 2001 |
| U.S. Patent No.      | 6,813,589         |
| Issue Date           | November 2, 2004  |
| Fax Number           | 571-273-8300      |
| Attorney Docket No.  | 0019US01          |

Title: METHOD AND APPARATUS FOR DETERMINING SYSTEM RESPONSE CHARACTERISTICS

FACSIMILE  
TRANSMITTAL  
FORM

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OFFICE OF PETITIONS

Total Pages: 10 (including transmittal sheet)

Mail Stop Petition  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

## Enclosures

The following documents are enclosed:

Form PTO/SB/96 - STATEMENT UNDER 37 CFR 3.73(b) (1 pg.)  
 Form PTO/SB/66 - Petition for Revival of Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (3 pg.)  
 Petition to Revive (2 pgs.)  
 Claim of Small Entity Status (1 pg.)  
 Form SB/2038 - Credit Card Form (1 pg.)  
 Form SB/81A - Revocation of Power of Attorney with New Power of Attorney (1 pg.)

## Submitted By

|           |                          |          |        |           |               |
|-----------|--------------------------|----------|--------|-----------|---------------|
| Name      | Andrew C. Walseth        | Reg. No. | 43,234 | Telephone | (651)336-8307 |
| Signature | <i>Andrew C. Walseth</i> |          |        | Date      | 8/9/10        |

Gigamax, Inc.  
6550 Edenvalle Blvd.  
Eden Prairie, MN 55346  
T 952 374-5960  
F 952 374-5984  
<http://www.gigamaxtech.com>  
[info@gigamaxtech.com](mailto:info@gigamaxtech.com)

## Certificate of Transmission

I certify that this paper, and the above-identified documents, are being transmitted by facsimile to 571-273-8300 at the United States Patent and Trademark Office on August 9, 2010.

|      |                   |           |                          |
|------|-------------------|-----------|--------------------------|
| Name | Andrew C. Walseth | Signature | <i>Andrew C. Walseth</i> |
|------|-------------------|-----------|--------------------------|

This Communication contains confidential information that may be attorney-client privileged. If you received this communication in error, please contact the sender at (952) 374-5960 and destroy the original.

Applicant respectfully requests revival of the above-identified patent (U.S. Patent No. 6,813,589) under 37 CFR 1.137(b). Applicant unintentionally failed to pay the maintenance fee due April 2, 2008 and as a result of which the Patent became abandoned on November 2, 2008. Applicant has enclosed a Small Entity 3.5 Year Maintenance Fee Payment of \$490 and the \$65 surcharge fee herewith. Applicant asserts that the entire delay in submission of the required Maintenance Fee from the due date until the filing of this petition was unintentional. As the application that resulted in this patent was filed after June 8, 1995, Applicant believes that a Terminal Disclaimer is not required for this application.

A Petition fee of \$1640.00 as set forth under 37 C.F.R. 1.20(i)(2) is also included herewith.

Petitioner, Gigamax Technologies, Inc., is successor in title to the Present Patent having purchased the assets from the creditors of the previous Assignee, Wavecrest Corp., which became insolvent and closed for business on July 29, 2008.

The present Patent is one of several applications and patents that became abandoned for lack of responses and maintenance fees after this period. As asserted in the attached claim of small entity status, the Petitioner, Gigamax Technologies, Inc. is a small start-up company. Gigamax Technologies, Inc. only recently completed purchase

**PETITION TO REVIVE PATENT**

U.S. Patent No. 6,813,589

Title: METHOD AND APPARATUS FOR DETERMINING SYSTEM RESPONSE  
CHARACTERISTICS

PAGE 2

Applicant Docket No. 0019US01

of, and clear title to, the assets of Wavecrest Corp. after entering to a conditional purchase agreement on March 3, 2009. Gigamax Technologies has been involved in organizing the company, securing start-up funding and inventorying assets with limited access to personnel and funds. Gigamax Technologies, Inc. has only recently become aware of the applications and patents that became abandoned and is now responding in attempt to revive after gaining title to them.

If the Examiner has any questions regarding this petition please feel free to contact the undersigned at 651-336-8307 or by email at awalseth@gigamaxtech.com.

Respectfully submitted,

Date: 3/9/10

Andrew C. Walseth  
Reg. No. 43,234  
awalseth@gigamaxtech.com

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2010 AUG 10 PM 4:29

AUG 09 2010

PTO/SB/66 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))Docket Number (Optional)  
0019US01Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Fax: (571) 273-8300

08/12/2010 DALLEN 00000011 6813589

01 FC:1599

2130.00 0F

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 6,813,589

Application Number 09/997,143

Issue Date November 2, 2004

Filing Date November 29, 2001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

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Also complete the following information, if applicable

The above - identified patent

AUG 13 2010

Is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_ OFFICE OF PETITIONS  
 original application number \_\_\_\_\_  
 original filing date \_\_\_\_\_

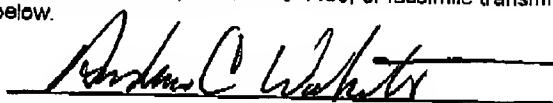
resulted from the entry into the U.S. under 35 U.S.C. 371 of international application \_\_\_\_\_  
 filed on \_\_\_\_\_

## CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (\*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

4/9/10

Date



Signature

Andrew C. Walseth, Reg. No. 43,234

Typed or Printed Name of Person Signing Certificate

[page 1 of 3]

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450, DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/66 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## 1. SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

## 3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

| NOT Small Entity                  |               |        | Small Entity                                  |               |        |
|-----------------------------------|---------------|--------|---|---------------|--------|
| Amount                            | Fee           | (Code) | Amount  | Fee           | (Code) |
| <input type="checkbox"/> \$ _____ | 3 1/2 yr fee  | (1551) | <input checked="" type="checkbox"/> \$ 490.00 | 3 1/2 yr fee  | (2551) |
| <input type="checkbox"/> \$ _____ | 7 1/2 yr fee  | (1552) | <input type="checkbox"/> \$ _____             | 7 1/2 yr fee  | (2552) |
| <input type="checkbox"/> \$ _____ | 11 1/2 yr fee | (1553) | <input type="checkbox"/> \$ _____             | 11 1/2 yr fee | (2553) |

MAINTENANCE FEE BEING SUBMITTED \$ 490.00

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(l)(2) of \$ 65.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 65.00

## 5. MANNER OF PAYMENT

Enclosed is a check for the sum of \$ \_\_\_\_\_

Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_

Payment by credit card. Form PTO-2038 is attached.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. \_\_\_\_\_

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 Approved for use through 03/31/2012. OMB 0851-0016  
 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

## 7. OVERPAYMENT

As to any overpayment made please

OR

Credit to Deposit Account No. \_\_\_\_\_

Send refund check

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

## 8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE  
PATENT REINSTATED


Signature(s) of Petitioner(s)

Andrew C. Walseth

Typed or printed name(s)

952-374-5960, 651-336-8307

Telephone Number

6550 Edenvale Blvd.

Address

Eden Prairie, MN. 55346

Address

8/9/10

Date

43,234

Registration Number, if applicable

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

## ENCLOSURES

Maintenance Fee Payment

Surcharge under 37 CFR 1.20(l)(2) (fee for filing the maintenance fee petition)

\_\_\_\_\_

AUG 09 2010

PTO/SB/81A (12-08)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
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**PATENT - POWER OF ATTORNEY  
OR  
REVOCATION OF POWER OF ATTORNEY  
WITH A NEW POWER OF ATTORNEY  
AND  
CHANGE OF CORRESPONDENCE ADDRESS**

|                        |  |
|------------------------|--|
| Patent Number          | 6,813,589  |
| Issue Date             | November 2, 2004   |
| First Named Inventor   | Mike Peng Li   |
| Title                  | METHOD AND APPARATUS FOR DETERMINING SYSTEM RESPONSE CHARACTERISTICS |
| Attorney Docket Number | 0019US01   |

I hereby revoke all previous powers of attorney given in the above-identified patent.

RECEIVED

A Power of Attorney is submitted herewith.

OR

I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) with respect to the patent identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

OFFICE OF PETITIONS

I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) with respect to the patent identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

| Practitioner(s) Name | Registration Number |
|----------------------|---------------------|
| Andrew C. Walseth    | 43,234              |
|                      |                     |
|                      |                     |
|                      |                     |

Please recognize or change the correspondence address for the above-identified patent to:

The address associated with the above-mentioned Customer Number.

OR

The address associated with Customer Number:

OR

|   |                            |       |                      |
|---|----------------------------|-------|----------------------|
| <input checked="" type="checkbox"/> Firm or Individual Name | Gigamax Technologies, Inc. |       |                      |
| Address   | 6550 Eden Prairie Blvd.    |       |                      |
| City  | Eden Prairie               | State | MN                   |
| Country   | U.S.A.                     | Zip   | 55346                |
| Telephone   | 952-374-5960               | Email | info@gigamaxtech.com |

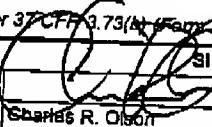
I am the:

Inventor, having ownership of the patent.

OR

Patent owner.

Statement under 37 CFR 1.73(a) (Form PTO/SB/86) submitted herewith or filed on

Signature 

SIGNATURE of Inventor or Patent Owner

|                   |                                 |           |              |
|-------------------|---------------------------------|-----------|--------------|
| Name              | Charles R. Olson                | Date      | 8/6/10       |
| Title and Company | CEO, Gigamax Technologies, Inc. | Telephone | 952-374-5960 |

NOTE: Signatures of all the inventors or patent owners of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

|   |
|---|
| <input type="checkbox"/> Total of <input type="text"/> forms are submitted. |
|---|

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. This will vary depending upon the individual case. Any comments on including gathering, preparing, and submitting the completed application form to the USPTO. This will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Gigamax Technologies, Inc.  
6550 Edenvale Blvd.  
Eden Prairie, MN 55346  
Tel: (952) 374-5960  
Fax: (952) 374-5984

Gigamax Technologies, Inc. of 6550 Edenvale Blvd., Eden Prairie, MN 55346, the owner and current assignee of the present patent, U.S. Patent No. 6,813,589, issued from U.S. Patent Application No. 09/997,143, Titled: METHOD AND APPARATUS FOR DETERMINING SYSTEM RESPONSE CHARACTERISTICS, herewith claims small entity status for purposes of prosecution of the present application before the United States Patent Office and asserts that it conforms to the required definition of a small entity detailed in 13 C.F.R 121.801-121.805.



Charles R. Olson, CEO of Gigamax Technologies, Inc.



X Andrew C. Walseth 8/6/10

Andrew Walseth, Esq.

Registration No. 43,234

AUG 09 2010

PTO/SB/88 (07-09)

Approved for use through 07/31/2012. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Gigamax Technologies, Inc.Application No./Patent No.: 6,813,589

Titled:

Filed/Issue Date: November 29, 2001/November 2, 2004**METHOD AND APPARATUS FOR DETERMINING SYSTEM RESPONSE CHARACTERISTICS**

Gigamax Technologies, Inc.

(Name of Assignee)

a Corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1.  the assignee of the entire right, title, and interest in;  
 2.  an assignee of less than the entire right, title, and interest in  
 (The extent (by percentage) of its ownership interest is \_\_\_\_\_ %); or  
 3.  the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made) the patent application/patent identified above, by virtue of either:

A.  An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy therefore is attached.

OR  
 B.  A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: Li et al. To: Wavecrest Corporation  
 The document was recorded in the United States Patent and Trademark Office at

Reel 012340, Frame 0184, or for which a copy thereof is attached.

2. From: \_\_\_\_\_ To: \_\_\_\_\_  
 The document was recorded in the United States Patent and Trademark Office at

Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

3. From: \_\_\_\_\_ To: \_\_\_\_\_  
 The document was recorded in the United States Patent and Trademark Office at

Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

Additional documents in the chain of title are listed on a supplemental sheet(s).

As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

**NOTE:** A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature

8/6/10

Date

CEO

Title

Printed or Typed Name

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.